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February 4, 2008

Mail Stop RCE
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450Attn: Art Unit 2621
Patent Examiner Anand Shashikant Rao

Re: **Application No.:** 10/603,266
Confirmation No.: 7160
Applicants: Enright, et al.
Title: System and Method for Capturing and Searching
Image Data Associated with Transactions
Docket No.: D-1112 R2 DIV

Sir:

Enclosed please find a Request for Continued Examination (RCE); an Amendment; and
Comments.Please charge the fee associated with filing the RCE (\$810) and any other fee due to
Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
Jeffery M. Enright, et al.)	
)	
Application No.: 10/603,266)	Art Unit 2621
)	
Confirmation No.: 7160)	
)	
Filed: June 23, 2003)	Patent Examiner
)	Anand Shashikant Rao
)	
Title: System and Method for Capturing)	
and Searching Image Data)	
Associated with Transactions)	

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Comments Regarding the Decision on Request for Rehearing

Applicants respectfully disagree with the BPAI's rehearing decision dated December 6, 2007 ("decision"). The decision was in response to the Request for Rehearing filed June 21, 2007 ("Request"). Kindly enter Applicants' following comments without prejudice.

The decision's recanting of the relied upon "verifying" language

With regard to the Gustin teaching, the decision agrees with Applicants that Gustin does not teach *verifying* a signature over networks. Nevertheless, the Board refuses to accordingly adjust their original decision.

Gustin does not verify a signature over a network, but rather the signature is locally verified by the ATM. As described in detail in the Appeal Brief, it is only an indication of signature confirmation (of a signature verified by the ATM) that is forwarded to the bank network. Nevertheless, the Board continues to misstate the Gustin teaching. The Board now indicates (on decision page 3) that the wording should be modified to read that "the reference Gustin teaches using [(1)] TIFF images of checks and [(2)] confirming signature and [(3)] transaction data over networks." The thrust of the Board's originally relied upon sentence (and the rejections) is now changed. At best, the Board's modified wording set forth on decision page 3 should read "Gustin teaches locally storing TIFF images of checks in the ATM. Gustin also teaches sending a signature confirmation (of a signature verified by the ATM) to a banking network. Gustin further teaches sending conventional transaction data to a banking network."

As Gustin does not use a banking network for either *verifying* or *confirming* a signature, the decision is in error because it improperly relies on such teaching in Gustin to maintain the rejections. The Board still has not answered (nor can it) where Gustin teaches the alleged features set forth at (1) and (2) on page 6 of the Request.

The decision's recanting of the relied upon "image data" language

The decision indicates (on page 4) that the original decision at page 10 has been modified to omit the words "image data." Yet the replacement sentence reads "Gustin discloses an ATM machine with scanned images of submitted checks and other standard ATM features, plus connections to remote terminals for transferring [the image data] signature and transaction data." As can be seen, the Board added the word "signature" for no valid reason. Gustin does not teach connections to remote terminals for transferring a signature. Thus, the decision is in error.

Furthermore, the thrust of the Board's originally relied upon sentence (and the rejections) is now changed. As the Board admits that Gustin does not teach connections to remote terminals for transferring "image data," the decision is in further error because it continues to rely on such teaching in Gustin to maintain the rejections.

The decision's reliance on an ATM host using markup language protocol is in error

The Request contended that Gustin's ATM communication was limited to an ATM host, conventional ATM to ATM host communication is proprietary, and that there wasn't any prior art teaching or suggestion of record to use a markup language protocol to communicate between an ATM and its host. The Board was asked to state where the prior art of record teaches or suggests using markup language protocol to communicate between an ATM and its ATM host.

The decision (on page 4) indicates that Anderson at col. 7, lines 30+ mentions "ATMs being connected to user's banks," and Anderson at col. 32, lines 57-67 provides a "teaching of ATM machines communicating by SGML standards with HTTP servers across the Internet." The decision relies on these sections of Anderson for maintaining the rejections. These sections reproduced below.

Anderson at col. 7, lines 30-41

"Automatic teller machines (ATM) and point of sale (POS) devices allow an individual to conduct a transaction from a location outside the home. ATMs have remote computer terminals connected to the user's bank which allow access, directly or indirectly through switching networks, to the user's account in the central computer of the bank. Similarly, POS devices are remote computer terminals located at a place of business which allow access to an individual's account information stored in a computer within a network of financial institutions, to permit transfer of funds from the user's account to the merchant's account at another bank."

Anderson at col. 32, line 55 to col. 33, line 4

"Similar functions to those of the PCMCIA card can be served by large scale cryptographic processors, such as Atalla or Racal Guardata boxes, for large operations where individual signature cards are impractical. For servers or mainframes which issue or endorse a large volume of checks, or which issue or endorse checks on behalf of a number of account holders, the processing and key storage capacities of signature cards may be exceeded. In this case, special cryptographic hardware must be used.

Although the electronic check's primary use is to make electronic payments on public networks, it may be used in any situation where a paper check would be used. For example, banks will use electronic checks to gather electronic deposits from public network users, providing an opportunity for complete full service electronic remote banking anywhere the customer is connected. POS and ATM implementations are also possible."

As can be seen, nowhere does Anderson teach or suggest using markup language protocol to communicate between an ATM and its ATM host. Rather in contrast, Anderson (at col. 38, line 33) specifically teaches that his ATMs use conventional proprietary networks. Additional evidence of Anderson's secure banking (Figure 3) is discussed in the Request. As the Board

continues to rely on a feature that Anderson does not teach in order to maintain the rejections, the decision is in error.

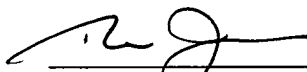
The decision is unclear and incomplete

It would not be clear to one skilled in the art of patent prosecution how the Board on one hand can acknowledge that Gustin does not teach the features relied upon for rejection (as discussed above), yet on the other hand continue to uphold the faulty rejection. As the decision does not address all of critical errors of fact (e.g., Error #3) noted in the Request, the decision is also incomplete.

The decisions have no legal effect

There is no evidence of record that either the original decision or the rehearing decision was ever considered by a Board judge. For example, the decisions lack evidentiary signature. As a result, Appellants respectfully submit that the decisions are improper and without legal effect.

Respectfully submitted,



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